

October 12, 2016

Ex Parte

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

*Re: Revision of Part 15 of the Commission's Rules to Permit Unlicensed National
Information Infrastructure (U-NII) Devices in the 5 GHz Band, ET Docket No. 13-49*

Dear Ms. Dortch,

On October 7, 2016, Danielle Piñeres of NCTA – The Internet & Television Association, Audrey Connors of Charter Communications, and Austin Bonner and I, both of Harris, Wiltshire & Grannis, met with Edward Smith, Legal Advisor to Chairman Wheeler, and separately with Johanna Thomas, Legal Advisor to Commissioner Rosenworcel. In both meetings, we discussed the opportunity for expanding unlicensed uses presented by the 5.9 GHz band, consistent with the attached presentation.

Pursuant to the FCC's rules, I have filed a copy of this notice electronically in the above-referenced proceeding. If you require any additional information, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul Margie".

Paul Margie
*Counsel for NCTA – The Internet &
Television Association*

cc: Edward Smith, Johanna Thomas



5.9 GHz

THE 5.9 GHZ BAND WOULD PROVIDE NEAR-TERM BENEFITS FOR WI-FI CONSUMERS

- NCTA's members have deployed more than 500,000 shared CableWi-Fi® hotspots—among a total of ~16 million public cable Wi-Fi hotspots—that rely on unlicensed spectrum
- In just one month, these hotspots support more than 1.7 billion active sessions, transmitting and receiving more than 101 petabytes of data
- The FCC adopted favorable technical rules for the U-NII-1 band in 2014; now, 54% of the access points deployed by NCTA's members use U-NII-1
- The cable industry is well-positioned to bring the benefits of Gigabit Wi-Fi to consumers very quickly if Commission opens the 5.9 GHz band for shared unlicensed use

SAFETY-OF-LIFE APPLICATIONS LED CONGRESS AND THE FCC TO LICENSE DSRC AT 5.9 GHZ

- In legislation directing the FCC to dedicate spectrum for DSRC, Congress focused on:
 - “[A]chievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions” as a primary goal
- The National Transportation Safety Board directed the FCC to:
 - “Expedite rulemaking action on the allocation of frequencies that would enhance the development possibilities of collision warning systems”
- In allocating spectrum for DSRC, the FCC also focused on public safety goals:
 - 1999 Order noted that ITS was “expected to improve traveler safety”
 - 2004 Order stated that the “primary goals of DSRC-based ITS applications are to increase the safety and efficiency of the nation’s surface transportation system”
 - FCC granted safety-of-life DSRC access priority over all other DSRC communications

DSRC'S COMMERCIAL STRATEGY

- Auto interests intend to commercialize 5.9 GHz by using special rights intended for safety for a host of non-safety purposes
- These include:

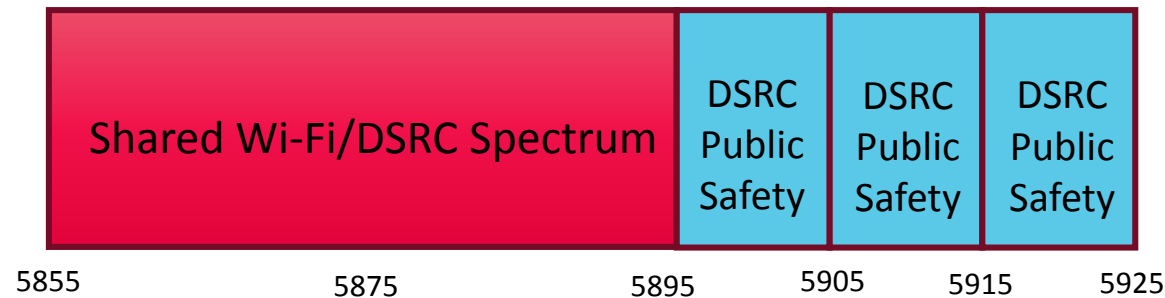
Toll payment	Rental car processing
Finding/paying parking	E-commerce
Drive thru payment	Infotainment
“Point of interest” notifications	Web browsing
Route guidance and navigation	Delivering advertising to vehicles
Instant messaging	Refueling transactions
Video downloads	Weather and traffic updates
Software updates	Transit status
- Fortunately, the FCC correctly recognized that non-basic-safety-message applications such as “entertainment, social media, maps, and parking . . . are not safety-related.”

DSRC SAFETY SERVICES REQUIRE LESS THAN 75 MHZ OF SPECTRUM

- NHTSA has noted that the basic safety messages used for V2V crash avoidance are exchanged on only one 10 MHz channel
- Even assuming an additional 10 MHz for future latency-sensitive safety services and a separate control channel, DSRC safety services require no more than 30 MHz of spectrum

RECHANNELIZATION PROTECTS SAFETY OPERATIONS AND PERMITS USABLE WI-FI

- Rechannelization would:
 - Set aside 30 MHz of spectrum exclusively for the use of latency-sensitive DSRC safety services—more than enough to protect safety applications
 - Allow unlicensed operations to share the lower portion of the 5.9 GHz band with non-safety DSRC services
- Many commenters support rechannelization, including: Broadcom, Common Cause, CompTIA, Dynamic Spectrum Alliance, Engine, Huawei, Microsoft, NCTA, New America's Open Technology Institute, Next Century Cities, Public Knowledge, Qualcomm, and WISPA



ONLY DSRC SAFETY APPLICATIONS JUSTIFY EXTRAORDINARY SPECTRUM PRIVILEGES

- Non-safety services planned for DSRC can be (and are today) offered using standards other than DSRC, including LTE and Wi-Fi
- The FCC should not grant one set of companies the extraordinary privilege of non-auctioned, exclusive spectrum for non-safety services; it should permit shared use and let the market decide
- Granting DSRC this privilege would undermine competition and the FCC's commitment to treating like services alike

TESTING: NEXT STEPS

- Safety-related DSRC communications are more latency sensitive than non-safety applications
- Testing should examine separately the potential of Wi-Fi to coexist with safety and non-safety DSRC services
- Testing for safety-related DSRC should:
 - Focus on the provision of basic safety messages for V2V safety warnings
 - Measure actual V2V system efficacy (*i.e.* does a V2V warning reach the driver in sufficient time to warn the driver of a pending collision?)

TESTING: NEXT STEPS

- The FCC is the agency with jurisdiction over all interference testing, in all three phases
- Testing in all three phases should be open and transparent, governed by the FCC's procedural rules
 - Testing should be open to interested stakeholders for observation
 - Test results should be made publicly available
 - Communications between the relevant government agencies and stakeholders should be subject to permit-but-disclose ex parte rules

THANK YOU

- For questions or additional information, please contact:

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